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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE201

***Deepwater Horizon* Oil Spill; Notice of Intent to Prepare an Environmental Impact Statement and Conduct Restoration Planning to Provide and Enhance Recreational Use in Alabama, and to Conduct Scoping**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of Intent to prepare a restoration plan (RP) and environmental impact statement (EIS), and to conduct scoping.

SUMMARY: The Federal and state natural resource trustees for the Alabama Trustee Implementation Group for the *Deepwater Horizon* (DWH) oil spill (Alabama TIG) intend to prepare an EIS under the National Environmental Policy Act (NEPA) to evaluate the environmental consequences of a range of restoration projects that the Alabama TIG will propose in an RP developed pursuant to the Oil Pollution Act (OPA) to compensate the public for lost recreational use opportunities in Alabama caused by the DWH oil spill in the Gulf of Mexico. Restoration planning to compensate the public for lost recreational opportunities in Alabama is expected to be phased. This initial restoration planning activity will occur during the 2016 planning year.

This restoration planning activity is occurring, in part, in accordance with the February 16, 2016, decision in *Gulf Restoration Network v. Jewell*, Case 1:15-cv-00191-CB-C (S.D. Ala.), in which the court enjoined the use of \$58.5 million in DWH early restoration funds pending

additional analysis under NEPA and OPA. This restoration planning activity fulfills the Federal and state natural resources trustees' responsibilities under this court order while looking more broadly at the potential to provide restoration for lost recreational use within Alabama.

Accordingly, this initial recreational use restoration planning activity may develop restoration projects to compensate for the full remaining allocated amount of Alabama's recreational use injury caused by the DWH oil spill (approximately \$83.5 million), or for some portion thereof.

This restoration planning activity is proceeding in accordance with the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan (PDARP) and Final Programmatic Environmental Impact Statement (PEIS). Information on the Restoration Type: Provide and Enhance Recreational Opportunities, as well as the OPA criteria against which project ideas are being evaluated, can be found in the PDARP/PEIS

(<http://www.gulfspillrestoration.noaa.gov/2016/04/trustees-settle-with-bp-for-natural-resource-injuries-to-the-gulf-of-mexico/>) and in the Overview of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/2016/04/trustees-settle-with-bp-for-natural-resource-injuries-to-the-gulf-of-mexico/>).

The Alabama TIG would like to hear your project ideas for addressing lost recreational use in Alabama and encourages you to submit restoration project ideas in response to this notice (see **ADDRESSES** for instructions). If you have submitted project ideas in the past, we will consider those projects along with additional ideas submitted at this time.

The Trustees also seek public involvement in the scoping process and development of the recreational use RP/EIS. This notice explains the scoping process the Alabama TIG will use to gather input from the public. In addition to restoration project ideas, the Alabama TIG invites public comments regarding the scope, content, and any significant issues it should consider in the

RP/EIS. Comments may be submitted at any time during the 30-day public scoping period via mail or the internet.

DATES: Public scoping comments and project ideas must be received by [*insert date 30 days after publication in the Federal Register*].

ADDRESSES:

Submitting Project Ideas: You may submit project ideas for addressing lost recreational use in Alabama at the following addresses:

Trustee Council Website:

<http://www.gulfspillrestoration.noaa.gov/restoration/give-us-your-ideas/suggest-a-restoration-project/>

Alabama Coastal Restoration Website:

<http://www.alabamacoastalrestoration.org/ProjectSubmit.aspx>

Submitting Scoping Comments: You may submit scoping comments on the EIS by any of the following methods:

- Via the Web: *<http://www.gulfspillrestoration.noaa.gov>*
- U.S. Mail: NOAA Gulf of Mexico Disaster Response Center; attn: Alabama Recreational Use Restoration Plan; 7344 Zeigler Blvd; Mobile, AL 36608.

All written scoping comments must be received by the close of the scoping period to be considered.

FOR FURTHER INFORMATION CONTACT:

- NOAA—Dan Van Nostrand, *dan.van-nostrand@noaa.gov*.
- AL—Amy Hunter, *amy.hunter@dcnr.alabama.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 -MC252), exploded, caught fire and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The DWH oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the spill.

The *Deepwater Horizon* state and Federal natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the DWH oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 et seq.). Pursuant to OPA, Federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;

- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);¹
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Alabama are now chosen and managed by the Alabama Trustee Implementation Group (TIG). The Alabama TIG is composed of the following Trustees:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;

¹ Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not participate in DWH Trustee decision-making.

- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (USEPA); and
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama.

The DWH Trustees received extensive comments and restoration project ideas during the scoping process in 2011 for the comprehensive Gulf Spill Restoration Plan and Programmatic EIS prepared by NOAA on behalf of the Trustees (76 FR 9327 - 9328). The DWH Trustees released this document, titled *Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan (PDARP)* and *Final Programmatic Environmental Impact Statement (PEIS)* in February 2016. Future restoration projects, including those developed in this recreational use RP/EIS, will be developed in accordance with the PDARP/PEIS.

The purpose of the scoping process is to identify the concerns of the affected public and Federal agencies, states, and Indian tribes, involve the public in the decision making process, facilitate efficient restoration planning and environmental review, define the issues and alternatives that will be examined in detail, and save time by ensuring that draft documents adequately address relevant issues. This scoping notice is also intended to elicit your restoration project ideas. The scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. Following the scoping process, the Alabama TIG will prepare a draft RP/EIS, at which time the public will be encouraged to comment on the document. A public comment meeting or meetings will be held at that time to gather public input on the document.

Invitation to Comment

The Alabama TIG seeks public involvement in the scoping process and development of the recreational use RP/EIS. The Alabama TIG invites public comment during the 30-day public comment period regarding (1) the scope, content, and any significant issues the Alabama TIG should consider in the RP/EIS, and (2) potential restoration project ideas. The Alabama TIG has published a Scoping Announcement which can be accessed at

www.alabamacoastalrestoration.org.

Next Steps

Following scoping, the Alabama TIG intends to release the draft RP/EIS by late summer or early fall 2016. At that time, the Alabama TIG will invite public review and comment on the document.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: *<https://www.doi.gov/deepwaterhorizon/adminrecord>*

Authority

The authority of this action is the National Environmental Policy Act (42 U.S.C. 4321 et

seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), and the implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990.

Dated: June 21, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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